

expected to form the basis of any Environmental Claim against any of the Acquired Companies and (ii) to the knowledge of Seller, no Environmental Claims are pending against any Person whose liabilities for such Environmental Claims any of the Acquired Companies have, or may have, retained or assumed, either contractually or by operation of law.

#### Section 2.19 Tax Returns and Tax Payments.

(a) Seller has timely filed all U.S. federal income Tax Returns and Combined Returns and each of the Acquired Companies has timely filed all other Tax Returns required to be filed by them for taxable periods prior to the Closing Date, except, as to such Tax Returns, to the extent that any failure to have filed, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect on the Acquired Companies, and all such Tax Returns were true and correct in all material respects. Seller and the Acquired Companies have paid all Taxes shown to be due on such Tax Returns and all other Taxes otherwise due, except to the extent that any failure so to pay, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect on the Acquired Companies. The unpaid Taxes of the Acquired Companies (i) did not, as of December 31, 2003, exceed the reserve for Tax liability set forth on the face of the December 31, 2003 balance sheet included within the December Financial Statements and the December 31, 2003 combined balance sheet included within the Non-Insurance Financial Statements and (ii) will not exceed such reserve as adjusted for operations through the Closing Date, except to the extent that any failure to reserve, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect on the Acquired Companies. Subject to Section 4.8(c), the reserve for Tax liability will be prepared in accordance with the past custom and practice of the Acquired Companies in filing their Tax Returns. The reserve for Taxes for federal income Taxes and state income Taxes for Combined Returns on the December 31, 2003 balance sheet included within the December Financial Statements and the December 31, 2003 combined balance sheet included within the Non-Insurance Financial Statements will be settled prior to the Closing Date pursuant to Section 4.13 or otherwise.

(b) No claim for unpaid Taxes in writing by a Tax authority has been asserted against Seller or any Acquired Company and no written notice of audit by a Tax authority has been received by Seller, which, if resolved unfavorably, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect on the Acquired Companies. No audit or examination of any Acquired Company is being conducted by a Tax authority, which, if resolved unfavorably, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect on the Acquired Companies. No extension of the statute of limitations is in effect on the assessment of any Taxes of the Acquired Companies. None of the Acquired Companies is or has been during any year for which the applicable statute of limitations with respect to the payment of federal income Taxes has not yet expired, a member of an affiliated group of corporations within the meaning of Section 1504 of the Code other than an affiliated group the common parent of which is or was Seller or has any liability resulting from Taxes of any Person other than the Acquired Companies under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign Law).

(c) Seller is not a "foreign person" within the meaning of Section 1445 of the Code.

(d) Each of the Acquired Companies has complied with all applicable laws relating to the payment and withholding of Taxes (i) pursuant to Sections 1441, 1442, 3121 and 3402 of the Code or similar provisions under any state, local or foreign laws) and (ii) with respect to any Policy under Sections 3405, 6047(a) and 6047(d)(1)(B) of the Code or similar provisions under any state, local or foreign laws, except to the extent that any failure to have paid or withheld, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect on the Acquired Companies and has, within the time and manner prescribed by law, withheld from and paid over to the proper authorities all amounts required to be so withheld and paid over under applicable laws.

(e) None of the Acquired Companies shall be required to include in a Tax period ending after the Closing Date taxable income attributable to income that accrued in a prior Tax period but was not recognized in any prior Tax period as a result of the installment method of accounting, the long-term contract method of accounting, the cash method of accounting or Section 481 of the Code or comparable provisions of state, local or foreign Tax law.

(f) No material liens for Taxes exist with respect to any of the assets or properties of the Acquired Companies except for statutory liens for Taxes not yet due or payable.

(g) Each deficiency resulting from any closed audit or examination relating to Taxes of the Seller and the Acquired Companies has been timely paid, except to the extent that any failure to have paid, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect on the Acquired Companies.

(h) Except as otherwise provided in this Section 2.19(h), each reserve item with respect to the Insurance Subsidiaries, in all material respects, was determined correctly in accordance with the requirements of Sections 807, 811 and 846 of the Code for any tax returns in which any of them were included for the taxable periods ended December 31, 2001 and December 31, 2002, has been consistently and correctly applied with respect to the filing of all tax returns including any of them for all taxable years for which the applicable statute of limitations has not expired, and will be consistently and correctly applied with respect to the filing of any tax returns in which any of them will be included for the taxable period ended December 31, 2003 and the taxable period from January 1, 2004 through the Closing Date when such tax returns are filed (it being understood by Parent and Buyer that in making the representations and warranties in this Section 2.19(h), Seller and GAC are not representing and warranting that the reserves referred to therein or the assets supporting such reserves have been or will be sufficient or adequate for the purpose for which they were established or that reinsurance receivables taken into account in determining the amount of such reserves will be collectible). No representation or warranty is made in this Section 2.19(h) with respect to reserve items in connection with the implementation of 2001 CSO reserving methodology.

(i) No Insurance Subsidiary has agreed, or is required to make, any adjustment under Section 807(f) of the Code.

(j) Each Insurance Subsidiary is and has been taxable as a life insurance company within the meaning of Section 816 of the Code for the taxable period ending on or including the Closing date and for all prior taxable periods for which the statute of limitations has not expired.

(k) Set forth on Part 2.19(k) of the Seller Disclosure Letter is the policyholders surplus account and the shareholders surplus account (as defined in Section 815 of the Code) for each Insurance Subsidiary as of December 31, 2002 as reported on Seller's consolidated federal income Tax Return for the taxable year ending on December 31, 2002, which surplus accounts were materially correct as of the date such Tax Returns was filed.

(l) All tax sharing agreements to which the Acquired Companies are parties or by which the Acquired Companies are bound will be terminated before closing. None of the Acquired Companies is party to or bound by any written, tax indemnity obligation.

Section 2.20 Employee Benefit Plans.

(a) Part 2.20(a)(i) of the Seller Disclosure Letter sets forth a true and correct list of each bonus, pension, profit sharing, deferred compensation, incentive compensation, stock ownership, stock purchase, stock appreciation, restricted stock, stock option, phantom stock, performance, retirement, thrift, savings, stock bonus, cafeteria, paid time off, perquisite, fringe benefit, vacation, severance, termination, retention, change of control, disability, death benefit, hospitalization, medical or other welfare benefit or other plan, program, arrangement or understanding, whether oral or written, formal or informal, funded or unfunded (whether or not legally binding), including, without limitation, each "employee pension benefit plan" (as defined in Section 3(2) of ERISA, whether or not subject to ERISA) (a "Pension Plan") and "employee welfare benefit plan" (as defined in Section 3(1) of ERISA, whether or not subject to ERISA) (a "Welfare Plan"), whether or not subject to the United States law, in each case maintained or contributed to, or required to be maintained or contributed to, by Seller or any of its Subsidiaries or any other person or entity that, together with Seller, is or was treated as a single employer under Section 414(b), (c), (m) or (o) of the Code (each, together with Seller, a "Commonly Controlled Entity") providing compensation or benefits to any current or former employees of an Acquired Company or any Bank Channel Employee (each such plan, a "Plan" and, collectively, the "Plans") that is a material Plan, other than the Acquired Company Plans. Part 2.20(a)(ii) of the Seller Disclosure Letter sets forth a true and correct list of each Acquired Company Plan. With respect to each Acquired Company Plan and other material Plan, Seller has delivered to Parent complete and correct copies of such Plan (or a description of such Plan if not written). To the extent applicable to an Acquired Company Plan, Seller has delivered to Buyer complete and correct copies of all trust agreements, insurance contracts or other funding agreements or arrangements, the three most recent actuarial and trust reports, the three most recent Form 5500s required to have been filed with the IRS and all schedules thereto, the most recent IRS determination letter, all current summary plan descriptions, and any and all amendments to any such document. To the knowledge of Seller, each item described in the immediately preceding sentence was as of its date and is true and correct in all material respects.

(b) Each Plan intended to be qualified under Section 401(a) of the Code, and the trust (if any) forming a part thereof, has received a favorable determination letter from the IRS with respect to all tax law changes through the Economic Growth and Tax Relief Reconciliation Act of 2001 as to its qualification under the Code and to the effect that each such trust is exempt from taxation under Section 501(a) of the Code. No such determination letter has been revoked, and, to the knowledge of Seller, revocation has not been threatened. No event has occurred and no circumstances exist that would (i) be reasonably likely to adversely affect (x) such qualification or tax-exempt status in form or operation or (y) the tax-qualification of such Plan, or (ii) materially increase its cost or require security under Section 307 of ERISA.



(c) Each of the Acquired Company Plans has been operated and administered in compliance in all material respects with its terms. Each Acquired Company and all the Acquired Company Plans are in compliance in all material respects with the applicable provisions of ERISA, the Code and all other Applicable Laws. All contributions required to be made to any Acquired Company Plan have been timely made or properly accrued on the Non-Insurance Financial Statements or the Insurance Subsidiary Statements. There are no pending or, to the knowledge of Seller, threatened investigations by any Governmental Entity, termination proceedings or other claims (except routine claims for benefits payable under the Plans) by or on behalf of any employee or beneficiary under any Acquired Company Plan, or otherwise involving any such Acquired Company Plan or the assets of any Acquired Company Plan and there are not any facts or circumstances that could give rise to any material liability in the event of any such investigation, claim or proceeding. All reports, returns and similar documents with respect to the Acquired Company Plans required to be filed with any Governmental Entity or distributed to any Acquired Company Plan participant have been duly and timely filed or distributed and all reports, returns and similar documents actually filed or distributed were true and correct in all material respects.

(d) Except as expressly provided in Section 4.6, with respect to any Plan (other than any Acquired Company Plan), there is no liability which could reasonably be expected to become a liability of Parent, Buyer and its Subsidiaries (including the Acquired Companies) following the Closing. No Commonly Controlled Entity has (i) engaged in a transaction described in Section 4069 of ERISA that could subject Parent, Buyer or any of its Subsidiaries (including each Acquired Company) to liability at any time after the date hereof or (ii) acted in a manner that could, or failed to act so as to, result in material fines, penalties, taxes or related charges under (x) Section 502(c), (i) or (1) of ERISA; (y) Section 4071 of ERISA or (z) Chapter 43 of the Code.

(e) No amount or other entitlement or economic benefit that could be received (whether in cash or property or the vesting of property) as a result of the execution or delivery of this Agreement or any of the transactions contemplated by this Agreement (alone or in combination with any other event, including termination of employment) by any current or former employees of an Acquired Company or any Bank Channel Employee who is a "disqualified individual" (as such term is defined in Treasury Regulation Section 1.280G-1) under any Plan or Contract or Other Agreement or otherwise would be characterized as an "excess parachute payment" (as such term is defined in Section 280G(b)(1) of the Code) and no such disqualified individual is entitled to receive any additional payment from an Acquired Company in the event that the excise tax required by Section 4999(a) of the Code is imposed.

(f) No Acquired Company Plan (i) is subject to Title IV or Part 3 of Title I of ERISA or Section 412 of the Code or (ii) is a multiemployer plan as defined in Section 4001(a)(3) of ERISA (a "Multiemployer Plan"), and no employee benefit plan (that would be treated as an Acquired Company Plan if it were still in existence) described in the immediately preceding clause (i) or (ii) has been terminated within the six years prior to the date hereof, the liabilities of which have not been satisfied in full.

(g) With respect to each Plan that is subject to Title IV or Part 3 of Title I of ERISA or Section 412 of the Code: (i) no reportable event (within the meaning of Section 4043 of ERISA, other than an event for which the reporting requirements have been waived by regulations) has occurred in the six (6) years prior to the date hereof or is expected to occur on or prior to the Closing; (ii) there has been no application for waiver and has been no accumulated funding deficiency (within the meaning of Section 302 of ERISA or Section 412 of the Code), whether or not waived, as of the most recently ended plan year of such Plan; (iii) no Commonly Controlled Entity has been required to provide security under Section 401(a)(29) of the Code; (iv) all premiums (and interest charges and penalties for late payment, if applicable) have been paid when due to the Pension Benefit Guaranty Corporation ("PBGC"); and (v) no filing has been made with the PBGC and no proceeding has been commenced by the PBGC to terminate any Plan and no condition exists which could constitute grounds for the termination of any such Plan by the PBGC.

(h) No Acquired Company has any unsatisfied actual or contingent liability under Title IV of ERISA for any employee benefit plan that is not a Plan.

(i) No "prohibited transaction" (as defined in Section 4975 of the Code or Section 406 of ERISA) has occurred that involves the assets of any Acquired Company Plan that could subject any Acquired Company or any of its Subsidiaries, any of their employees, or, to the knowledge of Seller, a trustee, administrator or other fiduciary of any trust created under any Acquired Company Plan to the tax or sanctions on prohibited transactions imposed by Section 4975 of the Code or Title I of ERISA; no Acquired Company or any of its Subsidiaries, any of their employees, or, to the knowledge of Seller, a trustee, administrator or other fiduciary of any Acquired Company Plan or any agent of any of the foregoing has engaged in any transaction or acted in a manner that could, or has failed to act so as to, subject any Acquired Company or any of its Subsidiaries, any of their employees or any trustee, administrator or other fiduciary to any liability for breach of fiduciary duty under ERISA or any other applicable Law.

(j) No Acquired Company Plan that is a Welfare Plan provides benefits after termination of employment except where the cost thereof is borne entirely by the former employee (or his or her eligible dependents or beneficiaries) or as required by Section 4980B(f) of the Code or any similar statute.

(k) No current or former employee of any Acquired Company or any Bank Channel Employees will be entitled to any additional compensation, severance or other benefits or any acceleration of the time of payment or vesting of any compensation or benefits under any Plan or Contract or Other Agreement as a result of the transactions contemplated hereby (alone or in combination with any other event) or any compensation or benefits under any Plan or Contract or Other Agreement the value of which will be calculated on the basis of any of the transactions contemplated hereby (alone or in combination with any other event), except as expressly provided in this Agreement. The execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby (alone or in combination with any other event) and compliance with the provisions of this Agreement and the other Transaction Documents do not and will not require the funding (whether through a grantor trust or otherwise) of, or increase the cost of, any Plan or Contract and Other Agreement or any other employment arrangement.

(l) No Acquired Company has any material liability or obligations, including under or on account of a Plan or Contract or Other Agreement, arising out of the hiring of persons to provide services and treating such persons as consultants or independent contractors and not as employees.

Section 2.21 Investment Advisory Activities.

(a) Advisory Agreements, Investment Companies and Other Clients.

(i) Part 2.21(a)(i) of the Seller Disclosure Letter sets forth a list, as of December 31, 2003, of each Client with an account of greater than \$1,000,000 of each Investment Advisor Subsidiary and shows for each such Client the aggregate amount of assets under management with Safeco Asset Management Company as of such date.

(ii) Seller has previously delivered to Parent copies of each Advisory Agreement with any of the Clients listed on Part 2.21(a)(i) of the Seller Disclosure Letter, such Advisory Agreements being referred to herein as the "Client Contracts"; provided that, for purposes of clauses (iii) and (iv) below, "Client Contracts" shall include all Advisory Agreements, regardless of the size of any related account. Since January 1, 2003, none of the Investment Adviser Subsidiaries has received and none is aware of any written demands or formal requests for reductions in the fee rates, waivers of fees or other reductions in the amounts payable under the Client Contracts.

(iii) Each Client Contract and any subsequent renewal has been duly authorized, executed and delivered by the Investment Adviser Subsidiary party thereto and, to the knowledge of Seller, each other party thereto, and is a valid and legally binding agreement, enforceable against such Investment Adviser Subsidiary and, to the knowledge of Seller, each other party thereto, subject to (i) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium and similar laws relating to or affecting creditors' rights and remedies generally; and (ii) the effect of equitable principles (regardless of whether enforceability is considered in a proceeding in equity or at law).

(iv) Each Investment Adviser Subsidiary and, to the knowledge of Seller, each other party thereto, is in substantial compliance with the terms of each Client Contract to which it is a party, and is not in default under any of the terms of any such Client Contract, except where such default would not reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect on the Acquired Companies; there does not exist under any Client Contract any event or condition that, after notice or lapse of time or both, would constitute an event of default thereunder on the part of the Investment Adviser Subsidiary in question, or, to the knowledge of Seller, any other party thereto, except, in each case, where such event or condition would not reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect on the Acquired Companies.

(b) Registered Investment Companies.

(i) Each Registered Investment Company is, and at all times required under the Securities Laws has been, duly registered with the SEC as an investment company under the Investment Company Act. Since January 1, 1999, each Registered Investment Company has continuously been (A) in substantial compliance with (w) the terms and conditions of its Constituent Documents, (x) the Securities Laws and the rules and regulations promulgated thereunder, (y) its investment policies and investment restrictions set forth in its registration statement as from time to time in effect and (z) the laws of its jurisdiction of formation and of each jurisdiction in which shares of such Registered Investment Company have been offered for sale or sold, and (B) duly registered or licensed and in good standing under the laws of each jurisdiction in which qualification is necessary. Without limiting the generality of the foregoing, each Registered Investment Company has maintained its records in compliance in all material respects with each of the Investment Company Act, the Investment Advisers Act and the rules of the National Association of Securities Dealers, Inc., including records necessary to substantiate the performance of the Registered Investment Company set forth in such Registered Investment Company's registration statements as from time to time in effect. There are no special restrictions, consent judgments or SEC or judicial orders on or against or with regard to any Registered Investment Company in effect, except for exemptive orders issued pursuant to Section 6(c) of the Investment Company Act listed on Part 2.21(b)(i) of the Seller Disclosure Letter.

(ii) Seller has delivered to Parent copies of the audited financial statements for each of the Registered Investment Companies for their fiscal year ending in 2002, and will deliver to Parent copies of any interim financial statements (whether quarterly, semi-annual or annual) prepared in the ordinary course for periods ending after the date hereof and before the Closing Date promptly upon such financial statements becoming available (the "Investment Company Financial Statements"). Each Investment Company Financial Statement is consistent with the books and records of such Registered Investment Company, and has been prepared in accordance with GAAP applied on a consistent basis throughout the periods presented in such Investment Company Financial Statement, subject, in the case of interim unaudited Investment Company Financial Statements, only to normal recurring year-end adjustments. The minute books of each Registered Investment Company accurately record all material corporate action taken by its shareholders and trustees and committees and true, correct and complete copies of such documents with respect to meetings occurring after January 1, 2001, have been delivered to Buyer.

(iii) (A) Seller has delivered to Parent copies of each Advisory Agreement in effect on the date hereof between Safeco Asset Management Company and each Registered Investment Company; (B) each such Advisory Agreement and any subsequent renewal has been duly authorized, executed and delivered by Safeco Asset Management Company, and, to the knowledge of Seller, the Registered Investment Company party thereto; and is a valid and legally binding agreement, enforceable against Safeco Asset Management Company and, to the knowledge of Seller, each other party thereto (subject to (i) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium and similar laws relating to or affecting creditors' rights and remedies generally, and (ii) the effect of equitable principles (regardless of whether enforceability is considered in a proceeding in equity or at law)); and (C) in the case of each Advisory Agreement with a Registered Investment Company has been adopted in compliance with Section 15 of the Investment Company Act, and if applicable, Rule 12b-1 thereunder.

(iv) Each current prospectus (which term, as used in this Agreement, shall include any related statement of additional information), as amended or supplemented, relating to each Registered Investment Company has been delivered to Parent. Each Registered Investment Company has timely filed all prospectuses, annual information forms, registration statements, proxy statements, financial statements, notices on Form 24f-2, other forms, reports, sales literature and advertising materials and any other documents required to be filed with any Governmental Entity, and any amendments thereto (the "Fund Reports"), and has timely paid all fees and interest required to be paid in connection therewith. The Fund Reports (i) have been prepared in accordance with the requirements of applicable Law, and (ii) did not at the time they were filed, and with respect to any prospectus, proxy statement, sales literature or advertising material, did not during the period of its authorized use, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were or are made, not misleading.

(v) None of the Advisory Agreements between a Registered Investment Company or any of its Subsidiaries and Safeco Asset Management Company contains any undertaking by such entity to cap fees or to reimburse any or all fees thereunder except, as of the date hereof, as may be disclosed in the applicable Investment Company Financial Statements.

(vi) Part 2.21(b)(vi) of the Seller Disclosure Letter sets forth all of the investment advisory agreements, sub-advisory agreements and distribution or underwriting contracts or plans adopted pursuant to Rule 12b-1 under the Investment Company Act (a "12b-1 Plan") or arrangements for the payment of service fees (as such term is defined in Rule 2830 of the NASD Conduct Rules), and all administrative services and other services agreements, if any (collectively, the "Fund Agreements"), to which any Registered Investment Company is a party and which are in effect on the date of this Agreement. True, correct and complete copies of the Fund Agreements have been delivered to Parent prior to the date hereof. As to each Registered Investment Company (other than any Registered Separate Account that is not a management investment company), there has been in full force and effect an investment advisory agreement and a distribution or underwriting agreement at all times since inception of such Registered Investment Company. Each Fund Agreement was duly approved in accordance with the applicable provisions of the Investment Company Act and all payments due since December 31, 2002 under each distribution or principal underwriting agreement to which any Registered Investment Company is a party have been made in compliance with the related 12b-1 Plan; and the operation of each such 12b-1 Plan complies with Rule 12b-1 under the Investment Company Act.

(vii) Each of the Registered Investment Companies has issued its shares, units or other interests and operated in compliance in all material respects with its investment objectives and policies and with Law, including Section 17 of the Investment Company Act; and each Board of a Registered Investment Company has been established and operates in conformity with the requirements and restrictions of Sections 9, 10 and 16 of the Investment Company Act. All shares of each Registered Investment Company have been duly authorized, are validly issued, fully-paid and non-assessable and have been sold in compliance with the Securities Act. With respect to each Registered Investment Company, all registration or qualification statements or notices of offering to sell or sales under which shares of such Registered Investment Company have been sold have, at all times when such registration statement, qualification statement or notice has been effective, complied in all material respects with the requirements of the Investment Company Act, the Securities Act and any other applicable Law then in effect. No stop order suspending the effectiveness of any such registration or qualification statement or notice has been issued and no proceedings for that purpose have been instituted or, to the knowledge of Seller, are contemplated with respect to any Registered Investment Company.

(viii) As of the Closing Date, each Investment Company Board of a Registered Investment Company having such a Board has taken such action required to be taken to approve new Advisory Agreements with Safeco Asset Management Company and to constitute itself in each case so as to comply with the provisions of Section 15 of the Investment Company Act and Rule 12b-1 thereunder.

(ix) Except as contemplated by Sections 4.9 and 4.10, no further action of the Investment Company Board of any Registered Investment Company having such a Board or of the shareholders of any such Registered Investment Company is required in connection with the transactions contemplated by this Agreement.

(x) Each of (1) the proxy solicitation materials to be distributed to the shareholders of any Registered Investment Company in connection with the approvals described in Sections 4.9 and 4.10 and (2) the materials provided to the Boards of any Registered Investment Companies in connection with the approvals of the Board resolutions have provided and will provide all information necessary in order to make the disclosure of information therein satisfy the requirements of Section 14 of the Exchange Act, Sections 15 and 20 of the Investment Company Act and the rules and regulations thereunder and such materials and information (except to the extent supplied by Parent or its Affiliates) will be complete in all respects and will not contain (at the time such materials or information are distributed, filed or provided, as the case may be) any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading or necessary to correct any statement or any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading.

(xi) As of the date hereof, no exemptive orders or no action letters from any Governmental Entity have been obtained, nor are any requests pending therefor, with respect to any Registered Investment Company under any of the Securities Laws except for exemptive orders issued pursuant to Section 6(c) of the Investment Company Act for regular operations in the ordinary course of business listed on Part 2.21(b)(xi) of the Seller Disclosure Letter.

(xii) No Acquired Company nor any of their Subsidiaries or Affiliates has any express or implied understanding or arrangement which would impose an unfair burden on any of the Registered Investment Companies or would in any way violate Section 15(f) of the Investment Company Act as a result of the transactions set forth in Section 1.1.

(xiii) Neither the Seller nor any "affiliated person" (as defined in the Investment Company Act) of the Seller or any Registered Investment Company receives or is entitled to receive any compensation directly or indirectly (i) from any Person in connection with the purchase or sale of securities or other property to, from or on behalf of any Registered Investment Company, other than bona fide ordinary compensation as principal underwriter for such Registered Investment Company or as broker in connection with the purchase or sale of securities in compliance with Section 17(e) of the Investment Company Act or (ii) from any Registered Investment Company or its security holders for other than bona fide investment advisory, administrative or other services. Disclosure of any such compensation arrangements has been made in the registration statement of each Registered Investment Company filed with the SEC to the extent such disclosure is required by applicable Law.

(xiv) Since the dates of the most recent audited financial statements included in the Investment Company Financial Statements of each Registered Investment Company, such Registered Investment Company has not, except for such actions expressly required under this Agreement to be taken in connection with the transactions contemplated hereby:

- (1) declared, set aside, made or paid any dividend or other distribution in respect of its equity interests or otherwise purchased or redeemed, directly or indirectly, any of its equity interests, except in the ordinary course of its business;
- (2) adopted, or amended in any material respect, any deferred compensation or other plan, agreement, trust, fund or arrangement for the benefit of any trustees;
- (3) amended its Constituent Documents;
- (4) changed in any material respect its accounting practices, policies or principles, except as may be required under applicable Law or GAAP; or



(5) operated its business in any manner other than in the ordinary course.

(xv) Each Registered Investment Company has in full force and effect such insurance and fidelity bonds as may be required by the Investment Company Act. Part 2.21(b)(xv) of the Seller Disclosure Letter sets forth all policies of insurance in effect with each Registered Investment Company and with each Investment Adviser Subsidiary relating to the Asset Management Business, and true and correct copies of such policies of insurance have previously been delivered to Parent.

(xvi) Notwithstanding any other provision in this Agreement to the contrary, Sections 2.21(b)(xvii) through 2.21(b)(xx) contain the only representations that Seller makes with respect to the Tax treatment of any Registered Investment Company and each such representation is subject to the dispute rights of Section 4.10(f).

(xvii) All Tax Returns of each Registered Investment Company that are required to be filed by it for taxable periods ending on or prior to the Closing Date (with due regard to any extensions) have been duly and timely filed. All such Tax Returns are true, correct and complete in all material respects. All Taxes of any Registered Investment Company for any Pre-Closing Tax Period have been duly and timely paid in full (or adequate provision for such has been made in its financial statements in accordance with GAAP).

(xviii) Each Registered Investment Company has complied with all laws relating to the payment and withholding of Taxes and has, within the time and the manner prescribed by law, paid over to the proper taxing authorities all amounts required to be so withheld and paid over.

(xix) Each Registered Investment Company that has elected to be a "regulated investment company" pursuant to Section 851(b)(1) of the Code has satisfied the relevant requirements of the Code for all taxable years, or parts thereof, of such Registered Investment Company ending on or prior to the Closing Date as to its status as a regulated investment company as defined in Section 851 of the Code. Neither Seller, any Affiliate of Seller nor, to the knowledge of Seller, any Registered Investment Company or any other agent of any Registered Investment Company has received any notice or other communication from any Governmental Entity relating to or affecting any Registered Investment Company's compliance with any of these relevant requirements.

(xx) With respect to each Registered Investment Company, to the knowledge of Seller, no claims have been or are being asserted by any Governmental Entity with respect to any Taxes and there are no threatened claims for Taxes. None of the Registered Investment Companies has ever entered into a closing agreement pursuant to Section 7121 of the Code or otherwise. There has not been any audit by any Governmental Entity of any Tax period of any Registered Investment Company, and, to the knowledge of Seller, no such audit is in progress and no Registered Investment Company has been notified by any Governmental Entity that any such audit is contemplated or pending. Except with respect to any extension granted pursuant to Internal Revenue Service Form 7004 (or any predecessor), no extension of time with respect to any date on which a Tax Return was or is to be filed by any Registered Investment Company is in force, and no waiver or agreement by any Registered Investment Company is in force for the extension of time for the assessment or payment of any Taxes.

(xxi) No Registered Investment Company, Investment Adviser Subsidiary, or Broker/Dealer Subsidiary (including any officer, director, or employee of any of them) has entered into, or acquiesced in, any agreement, arrangement or understanding to permit any person to engage in improper "market timing" or "late trading" activity (as such terms are commonly used in the securities industry) with respect to any Registered Investment Company or Separate Account. No Registered Investment Company, Investment Adviser Subsidiary, or Broker/Dealer Subsidiary (including any officer, director, or employee of any of them) has agreed to waive, modify, or otherwise not to enforce, any limitation or requirement in the then-current prospectus or statement of additional information or other constituent documents of a Registered Investment Company or Separate Account, the effect of which waiver, modification, or failure to enforce would be to permit or facilitate improper "market timing" or "late trading" activities with respect to such Registered Investment Company or Separate Account. No access person (as such term is defined in Rule 17j-1 under the Investment Company Act) of any Registered Investment Company or employee of any Investment Adviser Subsidiary or Broker/Dealer Subsidiary has engaged in any improper "market timing" or improper "late trading" activities with respect to any Registered Investment Company or Separate Account. Each Registered Investment Company has established procedures (i) to prevent patterns of transactions characteristic of improper "market timing" strategies, (ii) regarding the fair-value pricing and determination of the net asset value ("NAV") of fund shares in connection with purchase and redemption orders by investors in each Registered Investment Company (including policies and procedures to deter improper "late trading"), (iii) to prevent the improper or illegal disclosure of its portfolio holdings to any person and to prevent disclosure of its portfolio holdings in a manner that might reasonably be expected to facilitate improper market timing activities in respect of its shares or other improper or illegal activities in respect of it and (iv) reasonably designed to monitor and ensure that investors obtain the proper "breakpoint" discount with respect to purchases of shares of each Registered Investment Company with front-end sales loads (collectively, the procedures described in clauses (i)-(iv), the "RIC Procedures"). Each Investment Adviser Subsidiary and each Registered Investment Company is and has at all times since January 1, 2003 been in compliance in all material respects with all such procedures. No Investment Adviser Subsidiary, Registered Investment Company or Broker/Dealer Subsidiary has acted, directly or indirectly, to facilitate purchase and redemption orders for fund shares received after the NAV has been determined for a particular day at that day's NAV, nor is any Investment Adviser Subsidiary, Registered Investment Company or Broker/Dealer Subsidiary aware of such activities occurring in connection with the operations of any Registered Investment Company, except with respect to the Safeco Resource Series Trust, as permitted by *New York Life Fund, Inc.*, SEC no-action letter published May 6, 1971 and as provided for in the Participation Agreements filed with the SEC as exhibits to registration statements (which in each case requires that the beneficial owner of any fund shares shall have provided the relevant purchase or sale order

or instruction to the relevant intermediary prior to the time as of which such NAV is determined for the day in question). The parties agree that, in the event that any Governmental Entity asserts in any context, or any other Person asserts in a Proceeding, that any specified activity prior to the Closing constituted or might have constituted improper "market timing" or improper "late trading," then for the purposes of determining whether any of the representations in this Section 2.21(b)(xxi) has been breached, as between the parties the activity in question will be assumed to have constituted improper "market timing" or "late trading," as the case may be, regardless of whether Seller believes that the activity in question was in fact improper or constituted "market timing" or "late trading" activity.

(xxii) Each Registered Investment Company has at all times disclosed in its prospectus and statement of additional information to the extent required by applicable Law, any and all arrangements in place between each Investment Adviser Subsidiary or Registered Investment Company and a financial intermediary pursuant to which a financial intermediary is compensated, directly or indirectly, by such entity or an affiliate of such entity, with cash payments or other incentives in connection with its sale of shares of the Registered Investment Company. Such arrangements are and at all times have been in compliance in all material respects with applicable Law (including the Securities Act, the Investment Advisers Act, the Investment Company Act, ERISA and the NASD Regulations).

(xxiii) Each Investment Advisory Subsidiary has selected broker-dealers to execute portfolio transactions for each Registered Investment Company in accordance with the policies of each such Registered Investment Company disclosed in each such Registered Investment Company's registration statement and applicable requirements to seek best execution consistent with the Conduct Rules of the NASD.

(xxiv) Each Investment Adviser Subsidiary and each Registered Investment Company has at all times disclosed in its prospectus and statement of additional information to the extent required by applicable Law, any and all arrangements under which products or services other than execution of securities transactions are obtained by either entity from or through a broker-dealer in exchange for the direction by the Investment Adviser Subsidiary of client brokerage transactions to the broker-dealer. Such arrangements are and at all times have been in compliance in all material respects with applicable Law (including but not limited to the Securities Act, the Investment Advisers Act, the Investment Company Act, ERISA and the NASD Regulations).

#### Section 2.22 Insurance Practices.

(a) Except as otherwise, individually or in the aggregate, would not reasonably be expected to result in, a Material Adverse Effect on the Acquired Companies, all policies, binders, slips, certificates, annuity contracts and participation agreements and other agreements of insurance, whether individual or group, that are in effect (including all applications, supplements, endorsements, riders and ancillary agreements in connection therewith) and that have been issued by the Insurance Subsidiaries and any and all marketing materials, are, to the extent required under Law, on forms approved by applicable insurance regulatory authorities which have been filed and not objected to by such authorities within the period provided for objection (the "Company Forms"). The Company Forms comply in all material respects with the insurance statutes, regulations and rules applicable thereto and, as to premium rates established by Seller or any Insurance Subsidiary which are required to be filed with or approved by insurance regulatory authorities, the rates have been so filed or approved, the premiums charged conform thereto and such premiums comply in all material respects with the insurance statutes, regulations and rules applicable thereto.

(b) To the knowledge of the Seller, at the time any Insurance Subsidiary paid commissions to any broker or agent since January 1, 2001 in connection with the sale of Life & Annuity Contracts, each such broker or agent was duly licensed as an insurance broker (for the type of business sold by such broker) or agent in the particular jurisdiction in which such broker or agent sold such business for any Insurance Subsidiary. To the knowledge of Seller, since January 1, 1999 no such broker or agent violated (or with or without notice or lapse of time or both would have violated) in any material respect any Law or any other requirement of any Governmental Entity or arbitrator applicable to the sale or servicing of Life & Annuity Contracts. Neither the manner in which any Insurance Subsidiary compensates any Person involved in the sale or servicing of Life & Annuity Contracts that is not registered as a broker-dealer or insurance agent, as applicable, nor, to the knowledge of the Seller, the conduct of any such Person, renders such Person a broker-dealer or insurance agent under any applicable federal or state law, and the manner in which any Insurance Subsidiary compensates each Person involved in the sale or servicing of Life & Annuity Contracts is in compliance in all material respects with all applicable Law.

(c) Notwithstanding any other provision in this Agreement to the contrary, Section 2.22(c) contains the only representations with respect to the policyholder Tax treatment that Seller makes with respect to any annuity policy or other insurance policy issued by any Insurance Subsidiary (a "Policy"), including any benefits or other amounts provided by such a Policy, and each such representation is subject to the remediation and mitigation provisions of Section 4.10(g). The Tax treatment under the Code of any Policy (whether developed or administered by or reinsured with an unrelated party) issued or sold prior to or on the Closing Date is, and at all times through the Closing Date has been, the same or more favorable to the owner of such Policy (the "Policy Owner") or the intended beneficiaries thereof than the Tax treatment under the Code for which such Policy purported to qualify at the time of such Policy's issuance. For purposes of this Section 2.22(c), the provisions of the Code relating to the Tax treatment of such Policy shall refer to Code Sections 72, 79, 101, 104, 105, 106, 125, 130, 264, 401, 403, 404, 408, 408A, 412, 415, 419, 419A, 457, 501, 505, 817, 817A, 818, 1035, 7702, 7702A and 7702B. For any such variable Policy such Insurance Subsidiary is, and at all times through the Closing Date has been, treated as the owner for Tax purposes under the Code of the assets in any segregated asset account of such Insurance Subsidiary that relate to such Policy. Any such Policy that is a modified endowment contract under Code Section 7702A (a "MEC") has been marketed as such at any relevant time prior to its issuance, or its Policy Owner has consented to such MEC status.

(d) Other Insurance Practice Representations.

(i) To Seller's knowledge, there is no pending or threatened audit or other proceeding with the IRS or in any court with respect to the Tax treatment of any Policy to the Policy Owner under the Code.

(ii) To the knowledge of the Seller, there are no "hold harmless," tax sharing, indemnification, or similar arrangements regarding the Tax qualification or treatment of any Life & Annuity Contracts.

(iii) All contracts issued by any Insurance Subsidiary (whether developed or administered by or reinsured with any unrelated party) that are subject to Section 817 of the Code and the Treasury Regulations promulgated thereunder have met the diversification requirements applicable thereto since the issuance of the contracts.

(iv) All annuity contracts issued by any Insurance Subsidiary (whether developed or administered by or reinsured with any unrelated party) that are subject to Section 72(s) of the Code contain all of the necessary provisions of Section 72(s) of the Code.

(v) Each Life Insurance Contract (whether developed or administered by or reinsured with any unrelated party) that was issued after December 31, 1984 complies with the requirements of Section 7702 of the Code and qualifies as a "life insurance contract" within the meaning of Section 7702(a) of the Code. Each Life Insurance Contract (whether developed or administered by or reinsured with any unrelated party) that was issued before January 1, 1985 (i) complies with the requirements of Section 7702 of the Code to the extent applicable to such Life Insurance Contract and qualifies as a "life insurance contract" within the meaning of Section 7702(a) to such extent or (ii) to the extent Section 7702 of the Code is inapplicable to such Life Insurance Contract and such Life Insurance Contract is a flexible premium contract within the meaning of Section 101(f) of the Code, complies with the requirements of such Section 101(f).

(e) Except as would not reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect on the Acquired Companies, (i) each separate account maintained by an Insurance Subsidiary (a "Separate Account") is duly and validly established and maintained under the laws of its state of formation and is either excluded from the definition of investment company or exempt from registration under the Investment Company Act or is duly registered as an investment company under the Investment Company Act, and (ii) each such Separate Account is operated, and each contract issued by an Insurance Subsidiary under which Separate Account assets are held has been duly and validly issued, offered and sold. Seller has delivered to Buyer true, correct and complete copies of the annual statements of the Separate Accounts as filed with applicable state insurance regulatory authorities for the year ended December 31, 2002. Each such annual statement complied in all material respects with all applicable Laws when so filed and was timely filed with all required Governmental Entities. No material deficiencies have been asserted by any Governmental Entity with respect to any such annual statement. Each statutory financial statement of the Separate Accounts contained in any such annual statement fairly presents in all material respects, in accordance with applicable SAP, the financial condition of the applicable Separate Account and such Separate Account's summary of operations and surplus account for and during the respective periods covered by such financial statements. Each Insurance Subsidiary and each of its predecessors, if any, has at all times operated such Separate Accounts in material compliance with the terms of any and all agreements relating to such Separate Accounts and applicable Law.

(f) [INTENTIONALLY OMITTED].

(g) The separate accounts maintained by an Insurance Subsidiary which are required to register as an investment company under the Investment Company Act (each, a "Registered Separate Account") are and have been operated and registered in compliance with the Investment Company Act in all material respects and the applicable Insurance Subsidiary has filed all reports and amendments to its registration statement required to be filed, and has been granted all exemptive relief necessary for the operation of the Registered Separate Accounts, except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect on the Acquired Companies.

(h) There are no Contracts or Other Agreements to which any Insurance Subsidiary is a party, or which is binding upon any Insurance Subsidiary, that restrict the right of any Insurance Subsidiary to change the crediting rates and other non-guaranteed elements under the Life & Annuity Contracts, other than pursuant to the terms of the Life & Annuity Contracts. Except as set forth in its statutory reports filed prior to the date hereof and delivered to Buyer, and except as required by Laws of general applicability and the insurance permits, grants or licenses maintained by the Insurance Subsidiaries, there are no written agreements, memoranda of understanding, commitment letters or similar undertakings binding on any Insurance Subsidiary to which such Insurance Subsidiary is a party, on one hand, and any Governmental Entity is a party or addressee, on the other hand, or orders or directives by, or supervisory letters from, any Governmental Entity specifically with respect to any Insurance Subsidiary, which (A) limit the ability of the Insurance Subsidiary or any of its Subsidiaries to issue Life & Annuity Contracts, (B) require any investments of the Insurance Subsidiary or any of its Subsidiaries to be treated as nonadmitted assets, (C) require any divestiture of any investments of the Insurance Subsidiary or any of its Subsidiaries, (D) in any manner relate to the capital adequacy (including the maintenance of any National Association of Insurance Commissioners Insurance Regulatory Information System Ratio, reserves or surplus), credit policies or management of the Insurance Subsidiary or any of its Subsidiaries or the ability of the Insurance Subsidiary or any of its Subsidiaries to pay dividends or other distributions or (E) otherwise restrict the conduct of business of the Insurance Subsidiary or any of its Subsidiaries in any material respect.

(i) All Life & Annuity Contracts were issued in conformity in all material respects with the applicable Insurance Subsidiary's underwriting standards.

(j) Seller has delivered to Buyer all correspondence between any Insurance Subsidiary and any Governmental Entity (other than any Taxing authority) since January 1, 2002, regarding any alleged material violation of Laws.

(k) (i) To the extent that any Insurance Subsidiary is legally responsible therefor, (A) the terms of each Qualified Contract and the administration and operation thereof and of any plan or arrangement funded in whole or in part through any such Qualified Contract comply, and at all relevant times have complied, in all material respects with the applicable provisions of the Code and ERISA and (to the extent such plan is intended by the contract holder to limit fiduciary responsibility in accordance with section 404(c) of ERISA) comply, and at all relevant times have complied, in all material respects with all applicable requirements for limiting fiduciary responsibility under section 404(c) of ERISA; (B) contributions or payments to each such Qualified Contract that are intended to be nontaxable are not taxable; and (C) plan or contract loans made under such Qualified Contracts were neither prohibited transactions nor taxable when made or at any time thereafter, except with respect to taxable defaults in repayment of such plan or contracts loans; and

(ii) each Insurance Subsidiary is in material compliance with all provisions of ERISA which apply to the design or administration of Life & Annuity Contracts or to the



investment of assets of employee benefit plans subject to ERISA which are held under Life & Annuity Contracts.

(l) Each Insurance Subsidiary has at all times since January 1, 2003 in its marketing and sales materials, to the extent required by applicable Law, disclosed any and all arrangements in place between each Insurance Subsidiary and a financial intermediary pursuant to which a financial intermediary is compensated, directly or indirectly, by such entity or an affiliate of such entity, with cash payments or other incentives in connection with its sale of annuity and/or insurance products (collectively, "Financial Intermediary Arrangements"). Such arrangements are and at all times since January 1, 2003 have been in compliance in all material respects with applicable Law.

(m) No Insurance Subsidiary has acted, directly or indirectly, to facilitate purchase and redemption orders for shares in any Registered Investment Company or interests in any Separate Account received after the NAV has been determined for a particular day at that day's NAV and no such activities have occurred in connection with the operations of any Registered Separate Account, except with respect to the Safeco Resource Series Trust, as permitted by *New York Life Fund, Inc.*, SEC no-action letter published May 6, 1971 and as provided for in the Participation Agreements filed with the SEC as exhibits to registration statements (which in each case requires that the beneficial owner of any fund shares shall have provided the relevant purchase or sale order or instruction to the relevant intermediary prior to the time as of which such NAV is determined for the day in question).

(n) No Insurance Subsidiary (including any officer, director, or employee of any Insurance Subsidiary) has entered into, or acquiesced in, any agreement, arrangement or understanding to permit any person to engage in improper "market timing" or improper "late trading" activity (as such terms are commonly used in the securities industry) with respect to any Separate Account or Registered Investment Company. No Insurance Subsidiary has agreed to waive, modify, or otherwise not to enforce, any limitation or requirement adopted or implemented by it or by such Separate Account (including without limitation in any prospectus or other offering document relating to any Separate Account or in any other constituent document relating to any Separate Account), the effect of which waiver, modification, or failure to enforce would be to permit or facilitate improper "market timing" or improper "late trading" activities with respect to such Separate Account. Each Insurance Subsidiary has established procedures to prevent patterns of transactions characteristic of improper "market timing" strategies in its Separate Accounts. Each Insurance Subsidiary and each Separate Account is and has at all times since such procedures were adopted been in compliance in all material respects with such procedures. The parties agree that, in the event that any Governmental Entity asserts in any context, or any other Person asserts in a Proceeding, that any specified activity prior to the Closing constituted or might have constituted improper "market timing" or improper "late trading," then for the purposes of determining whether any of the representations in this Section 2.22(n) have been breached, as between the parties the activity in question will be assumed to have constituted improper "market timing" or improper "late trading," as the case may be, regardless of whether Seller believes that the activity in question was in fact improper or constituted "market timing" or "late trading" activity.

(o) Each Insurance Subsidiary to which the Health Insurance Portability and Accountability Act and the regulations promulgated thereunder (including 45 C.F.R. parts 160, 162 and 164) (collectively, "HIPAA") are applicable has implemented a plan or plans designed to ensure compliance by such Insurance Subsidiary, with any applicable state or federal privacy laws or regulations (including HIPAA) governing the privacy, security and electronic data transfer standards relating to health information to the extent such laws or regulations are in effect as of the date hereof, and has taken reasonable steps to formulate and implement a plan or plans designed to ensure compliance with such laws and regulations by no later than the applicable mandated compliance dates to the extent such laws and regulations are not in effect as of the date hereof. These plans, as in effect on the date hereof, are referred to collectively as the "Insurance Subsidiary HIPAA/Privacy Plan". The Insurance Subsidiary HIPAA/Privacy Plan is based upon advice of legal counsel competent as to the matter concerning: (i) the application of HIPAA and other state and federal privacy laws and regulations to each Insurance Subsidiary and (ii) the measures that must be taken to attain compliance with such laws and regulations by their mandated compliance dates. The Seller reasonably believes that the objectives set forth in the Insurance Subsidiary HIPAA/Privacy Plan for any laws and regulations that are not in effect as of the date hereof are attainable in the manner and within the time periods set forth therein (which time periods have been established to ensure full compliance by the applicable compliance dates imposed by HIPAA and other applicable state and federal privacy laws and regulations).

Section 2.23 Third Party Reinsurance Contracts Part 2.23 of the Seller Disclosure Letter lists all agreements pursuant to which any Insurance Subsidiary cedes or retrocedes risks assumed under the Life & Annuity Contracts (the "Third Party Reinsurance Contracts"). No Insurance Subsidiary is currently a party to any surplus relief contract or treaty, whether called a reinsurance contract or agreement or otherwise denominated, or any other similar contract or agreement other than any contract or treaty set forth in Part 2.23 of the Seller Disclosure Letter. All of the Third Party Reinsurance Contracts are in full force and effect and valid and binding upon the Insurance Subsidiaries (to the extent a party thereto, subject to (i) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium and similar laws relating to or affecting creditors' rights and remedies generally, and (ii) the effect of equitable principles (regardless of whether enforceability is considered in a proceeding in equity or at law)) and, to the knowledge of the Seller, upon each of the other parties thereto, and none of the Insurance Subsidiaries and, to the knowledge of the Seller, none of the other parties to the Third Party Reinsurance Contracts, is in material default under, and no event has occurred which, with the passage of time or giving of notice or both, would result in any of the Insurance Subsidiaries or, to the knowledge of the Seller, any of the other parties to the Third Party Reinsurance Contracts, being in material default under, any of the terms of the Third Party Reinsurance Contracts. None of the Insurance Subsidiaries has received any written notice of the initiation of bankruptcy, liquidation, receivership, insolvency or similar proceedings with respect to any other party to a Third Party Reinsurance Contract. None of the Insurance Subsidiaries has been prohibited under the applicable SAP or applicable insurance Laws from taking financial statement credit for the reinsurance provided by the Third Party Reinsurance Contracts and any reinsurance recoverables more than thirty days past due have been previously disclosed to Buyer. The Closing of the transactions contemplated by this Agreement will not give rise to any termination or recapture rights under the Third Party Reinsurance Contracts. All Life & Annuity Contracts that are reinsured or retroceded in whole or in part conform in all material respects to the standards agreed to with reinsurers in the related reinsurance, retrocession or other similar contracts other than such deviations that are immaterial, individually or in the aggregate.

### **ARTICLE III. REPRESENTATIONS AND WARRANTIES OF PARENT AND BUYER**

Parent and Buyer represent and warrant to Seller and GAC as of the date of this Agreement and, unless such representations and warranties address a matter only as of a certain date, as of the Closing Date as follows:

Section 3.1 Organization. Each of Parent and Buyer has been duly organized and is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted. Each of Parent and Buyer is duly qualified to do business and in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it make such qualification necessary, except for such failures to be so duly qualified and in good standing that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect on Parent or Buyer, as the case may be. Buyer is a newly formed, direct wholly owned subsidiary of Parent and, except for activities incident to the acquisition of the Shares and the other transactions contemplated under the Transaction Documents, Buyer has not engaged in any business activities of any type or kind whatsoever.

Section 3.2 Authorization; Binding Agreement. Each of Parent and Buyer has all requisite corporate power and authority to execute and deliver this Agreement and the other Transaction Documents to which each is a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement and the other Transaction Documents to which each is a party and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary corporate action on the part of each of Parent and Buyer. This Agreement has been duly and validly executed and delivered by each of Parent and Buyer and (assuming the accuracy of the representations and warranties in Section 2.3) constitutes a legally valid and binding agreement of each of Parent and Buyer, enforceable against each of them in accordance with its terms, subject to (i) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium and similar laws relating to or affecting creditors' rights and remedies generally, and (ii) the effect of equitable principles (regardless of whether enforceability is considered in a proceeding in equity or at law).

Section 3.3 Noncontravention. Neither the execution and delivery of this Agreement and the other Transaction Documents nor the consummation of the transactions contemplated hereby and thereby will conflict with or result in any breach of any provision of, or require any consent or approval (other than consents and approvals described in Section 3.4 below) under, or constitute (with or without notice or lapse of time or both) a violation or default (or give rise to any right of termination, cancellation or acceleration or to any loss of a material benefit) under, or result in the creation of any Lien upon the properties or assets of Parent or Buyer under, any of the terms, conditions or provisions of (i) the Constituent Documents of either Parent or Buyer, (ii) any Contracts and Other Agreements to which Parent or Buyer is a party or by which any of them or any portion of their properties or assets may be bound or (iii) any Law or Order applicable to Parent or Buyer or any portion of their properties or assets, other than in the case of the foregoing clauses (ii) and (iii), any such items that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect on Parent or Buyer.

Section 3.4. Approvals. No license, permit, consent, approval, order, certificate, authorization of, declaration of or filing with, any Governmental Entity on the part of either Parent or Buyer that has not been obtained or made is required in connection with the execution or delivery by Parent or Buyer of this Agreement or the other Transaction Documents or the consummation by Parent or Buyer of the transactions contemplated hereby and thereby, other than (a) filings and other applicable requirements under the HSR Act, (b) approvals, filings and/or notices required under any applicable state or federal banking laws or any applicable state or federal laws related to the sale or operation of insurance, investment companies, investment advisers or broker-dealers set forth in Part 2.5 of the Seller Disclosure Schedule, or (c) consents, approvals, authorizations, declarations or filings that, if not obtained or made, would not reasonably be expected to result in a Material Adverse Effect on Parent or Buyer or prevent Parent or Buyer from consummating the transactions contemplated hereby.

Section 3.5. Finders and Investment Bankers. None of Parent or Buyer or any of their respective officers, directors or Affiliates has employed any investment banker, financial advisor, broker or finder in connection with the transactions contemplated by this Agreement or incurred any liability for any investment banking, business consultancy, financial advisory, brokerage or finders' fees or commissions in connection with the transactions contemplated hereby.

Section 3.6. Financing. Parent has firm financing commitments that are sufficient to enable it to consummate the transactions contemplated in this Agreement. True and correct copies of such commitments have been delivered to Seller. The financing required to consummate the transactions contemplated in this Agreement is referred to in this Agreement as the "Financing". As of the date of this Agreement, Parent does not have any reason to believe that any of the conditions to the Financing will not be satisfied or that the Financing will not be available to Parent on a timely basis to consummate the transactions contemplated in this Agreement, including the payment of the Closing Consideration as set forth in Section 1.3(b)(i).

Section 3.7. Compliance with Section 15(f) of the Investment Company Act. Neither Buyer nor any of its Affiliates has any express or implied understanding or agreement which would impose an unfair burden on any Investment Company that would otherwise preclude satisfaction of the safe harbor provided by Section 15(f) of the Investment Company Act as a result of the transactions contemplated hereby.

Section 3.8. Investment Intent. The Shares will be acquired by Buyer for its own account and not for the purpose of a distribution. Buyer will refrain from transferring or otherwise disposing of any of the Shares acquired by it, or any interest therein, in such manner as to violate any registration provision of the Securities Act, or any applicable state securities law regulating the disposition thereof. Buyer agrees that the certificates representing the Shares may bear legends to the effect that the Shares have not been registered under the Securities Act, or such other state securities laws, and that no interest therein may be transferred or otherwise disposed of in violation of the provisions thereof.